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Marshall L. Stinnett, Special Agent in Charge, Office of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, 202-343-9237, or Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-7814.

SUPPLEMENTARY INFORMATION

BACKGROUND

Introduction.—The alligator is a large conspicuous member of its environment and has been feared, praised, and exploited probably since man first came to southeastern North America. Early naturalists and explorers presented startling and unbelievable stories concerning the species and its behavioral patterns. However, in spite of its major role in the ecosystems of the South, surprisingly little scientific work was conducted on it and then often with conflicting observations. Today, the importance of the alligator as a top predator, modifier of its environment, and behaviorally sophisticated species is universally recognized by the scientific and wildlife management communities.

One of the main commercial values of the alligator is for its hide, which can be fashioned into leather articles. Hunting and poaching at one time seriously reduced the number of alligators and led to its inclusion as endangered throughout its range under provisions of the Endangered Species Conservation Act of 1966. Strict Federal protection coupled with strong State laws, enabled the alligator populations to recover dramatically in many parts of its former range. Because of this, the alligator has been reclassified twice to reflect its improved status (September 26, 1975 (40 FR 44412-44429), and January 10, 1977 (42 FR 2071-2077)). The Endangered Species Act authorizes the protection of species, subspecies, or any other groups of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. The Service has designated four different groups or populations of the American alligator, and has classified these groups as endangered, threatened, or threatened (similarity of appearance) depending on the locality involved.

At present, the alligator is classified in Louisiana under the Act as threatened (similarity of appearance) in Cameron, Calcasieu, and Vermilion Parishes, threatened in other coastal parishes, and endangered in inland parishes.

On July 30, 1976, Gov. Edwin Edwards of Louisiana petitioned the Fish and Wildlife Service to delist the American alligator in all southern parishes in Louisiana. On February 7, 1977, Curtis Bohlen, then Acting Assistant Secretary of the Department of the Interior, advised the State that supporting data were required before the Service could act on the State's petition. Accordingly, the State supplied supporting documentation on April 12, 1977, December 7, 1977, and June 14, 1978, which they believe supports the reclassification as requested. This information is as follows:

(1) A letter (dated April 12, 1977) from J. Burton Angelle requesting delisting of alligators in the following parishes: Cameron, Calcasieu, Vermilion, Acadia, Allen, Beauregard, Jefferson Davis, Iberville, Lafayette, Point Coupee, St. Landry, St. Martin, West Baton Rouge, East Baton Rouge, Ascension, St. John, St. James, Assumption, Lafourche, Terrebonne, St. Mary, Iberia, Livingston, St. Tammany, Tangipahoa, St. Bernard, Orleans, Jefferson, Plaquemine, and St. Charles. A total of 4.5 million acres of potential alligator habitat is included and a total of 308,000 alligators (1976 figures) would be involved. This estimate is based on a combination of expansion of the nesting density index and comments from field personnel.

A parish-by-parish estimate was not included although estimates were provided on the basis of habitat type.

(2) A letter (dated December 7, 1977) and supporting documents received from J. Burton Angelle as follows:

(a) Letter—282,000 alligators were estimated from 3.4 million acres of coastal marshlands censused by individuals. A 2- or 1-percent sample (depending on area) was taken and expanded for the nesting density index. Twenty-eight percent of the area was surveyed by estimates from field personnel.

(b) News releases on the 1972, 1973, 1976, and 1977 alligator harvests.

(c) A parish-by-parish breakdown of population estimates in 1973 and 1976.

(d) A table showing nesting effort in comparison to precipitation levels, 1970-76.

(e) A table showing results of the 3-year experimental harvest program in southwestern Louisiana, 1972, 1973, and 1975.

(f) "Population Distribution of Alligators With Special Reference to the Louisiana Coastal Marsh Zone" by T. Joanen and L. McNease. 1972.

[4310-55]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Reclassification of the American Alligator in Louisiana, and proposed Changes to Special Rules Concerning the Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to change the legal status of the American alligator, *alligator mississippiensis*, in nine parishes of southern Louisiana from their present threatened status to threatened under the similarity of appearance clause of the Endangered Species Act of 1973. This proposal is being made because in recent years the alligator has increased its numbers significantly in nine parishes. These nine parishes are located primarily within the coastal zone of Louisiana and include the following: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. As such, the special rules which presently apply to alligators in Cameron, Calcasieu, and Vermilion Parishes in southwestern Louisiana, would apply to these parishes as well. In addition, the service proposes to amend the special rules which apply to American alligators in order to simplify application procedures for those seeking buyer's, tanner's, and fabricator's licenses. This amendment would also authorize the sale of meat from lawfully taken alligators in States where such activity is permitted. Also included in this proposal is a limitation upon the applicability to American alligators of general permits pertaining to threatened wildlife issued under 50 CFR 17.32.

DATES: Comments from the public and the Governor of Louisiana must be received by December 26, 1978.

Public hearings will be held on this proposal. The dates and places for the hearings will be published in the **FEDERAL REGISTER** at a later date.

ADDRESSES: Submit comments to Director (FWS/LE), U.S. Fish and

(g) "Louisiana's Experimental Alligator Harvest Program" by T. Joanen and L. McNease. 1976.

(h) "An Analysis of Louisiana's 1972 Experimental Alligator Harvest Program" by A. W. Palmisano, T. Joanen, and L. McNease. 1973.

(i) "Simulation of a Commercially Harvested Alligator Population in Louisiana" by J. D. Nichols, L. Viehman, R. H. Chabreck, and B. Fender-son. 1976.

(3) A letter (dated June 14, 1978) by T. Joanen with another group of documents:

(a) Letter—Provided an updated parish by parish estimate of the alligator population and a more precise picture of how the alligator is censused within the State.

(b) "Artificial Incubation of Alligator Eggs and Post Hatching Culture in Controlled Environmental Chambers" by T. Joanen and L. McNease. 1977.

(c) "Effects of Simulated Flooding on Alligator Eggs" by T. Joanen, L. McNease, and G. Perry. 1977.

(d) "A Comparison of Native and Introduced Immature Alligators in Northeast Louisiana" by D. Taylor, T. Joanen and L. McNease.

(e) "Culture of American Alligator" by T. Joanen and L. McNease.

(f) "Time of Nesting for the American Alligator" by T. Joanen and L. McNease. 1978.

(g) "Status of Louisiana Alligator Farm Program by T. Joanen and L. McNease. 1978.

(h) "Preliminary Results of Louisiana's Alligator Harvest Program, 1977" by T. Joanen, L. McNease, and G. Linscomb. 1977.

(i) "Alligator Diets in Relation to Marsh Salinity" by L. McNease and T. Joanen. 1977.

The Service has reviewed all available data and the Director has determined that because of large population sizes and increasing numbers, the American alligator is no longer likely to become endangered in the foreseeable future so as to be threatened in the following parishes in southern Louisiana: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. The Service believes that the alligator can be managed within these areas and that no harm will be done to the species by controlled harvest. However, because of similarity of appearance, it is still necessary to impose some restrictions on commercial activities involving specimens taken in these nine parishes to insure the conservation of other alligator populations that are threatened or endangered.

Section 4(e) of the Act authorizes the treatment of a species (or subspecies or group of wildlife in common spatial arrangement) as an endangered

or threatened species even though it is not otherwise listed as endangered or threatened, if it is found: (a) That the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act. The Service currently treats the group of American alligators found in Cameron, Vermilion, and Calcasieu Parishes in Louisiana as threatened because of their similarity in appearance to other groups of American alligators that are listed as threatened or endangered. Certain restrictions are imposed on commercial activities involving specimens taken from these three parishes, as is discussed below, to insure the conservation of those groups of American alligators that are listed as threatened or endangered. The Service now proposes to treat the group of American alligators found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana as threatened because of similarity in appearance, and to impose similar restrictions on commercial activities involving specimens taken from those parishes.

American alligators found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana are indistinguishable from American alligators existing elsewhere which are treated by the Service as endangered or threatened under relevant provisions of the Act. Hides from American alligators have proved to have a great commercial value owing to the substantial demand which exists for them in the international leather trade. In addition, representatives of the food industry in Louisiana and Florida have recently expressed an interest in test marketing alligator meat as a novelty item. Historically, it has been shown that the taking of American alligators for commercial purposes was a substantial factor contributing to the decline of the species. This resulted in the previous listing of the American alligator as endangered or threatened over the major portion of its range. Restrictions on taking and commercial activities that stem from such listing would remain for those segments of the American alligator population which continue to be classified as endangered or threatened. In order to insure maximum protection for these endangered and threatened alligators, some re-

strictions on commercial activities have been found necessary for the physically similar group which exists in the nine parishes affected by this proposal.

Although the State requested that additional parishes be delisted, these parishes either have small population sizes or the populations are stable, based on the State's population status information 1973-76. Therefore, the Service does not believe that a reclassification is warranted for these areas at this time. The Service will continue to monitor the alligator's status, however, and should reclassification be warranted in the future, the Service will act accordingly.

The Fish and Wildlife Service also proposes to amend 50 CFR Part 17 through the revision of certain paragraphs, and revocation of others, found in § 17.42. This section allows for the taking of American alligators under certain specified circumstances, including the taking by Federal or State conservation officers in the performance of their duties, and the taking by any persons in three parishes of Louisiana in accordance with the laws of that State. Also included in this section are provisions for the issuance of licenses authorizing the commercial buying, tanning, and fabrication of lawfully taken alligator hides. The Service has undertaken a review of its enforcement program relating to this provision and has concluded that the permit application process can be substantially simplified without impairing its objectives. As a result, it proposes that present regulatory provisions requiring the submission of detailed information regarding the permit applicant's business organization, methods of operation, previous experience, and accounting systems be eliminated. In addition, owing to the fact that the Service is capable of ascertaining previous wildlife law violations through the record system of its Enforcement Division, the proposed regulations eliminate the necessity for permit applicants to furnish such information on themselves. The burden placed upon those seeking tanner's licenses would be slightly increased under the proposed regulations through the addition of a requirement that all hides to be processed bear a series of markings on their underside applied by the tanner. This is intended to facilitate the Service's enforcement efforts by allowing lawfully taken hides to be identified as such throughout the tanning fabrication process. The Service's interest in this regard is protected prior to the tanning stage through the tagging requirement placed upon those responsible for harvesting and shipping the alligator hides. The burden placed upon fabricators of alligator hide articles has

been decreased under the proposed regulations through the elimination of certain recordkeeping requirements which the Service has found to be unnecessary and the further elimination of marking requirements which are rendered superfluous by the proposed regulations.

Under § 17.42 as presently constituted, the sale of meat from lawfully taken alligators is strictly prohibited. This position was adopted owing to the fact that control factors were lacking on the level for the regulation of such sale through licensing and recordkeeping requirements. The State of Louisiana has since imposed such controls. In recognition of this circumstance, and in further consideration of the fact that the present regulations mandate the wastage of an economically valuable source of protein, the proposed regulations would allow the sale of alligator meat in the State where the taking occurs, and where this activity is permitted and regulated through the imposition of licensing and recordkeeping requirements on selling parties. Section 17.42 presently applies to all American alligator permits issued under section 17.32, authorizing the performance of activities otherwise prohibited with regard to threatened wildlife. Importation and exportation are two such prohibited activities. Despite the fact that its regulations would thereby allow permits to be issued for the importation and exportation of American alligators, the Service has few such permits to date, owing to its concern that legally exported alligator hides would be commingled with illegally taken hides that are known to exist outside the United States and because the alligator is listed on appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora which restricts international trade in species for primarily commercial purposes. However, the United States is presently considering a proposal to

change the alligator's status under the Convention from appendix I to appendix II. This would remove the convention's absolute restriction on international trade. In other words, alligators from the 12 Louisiana parishes would be able to be exported and imported as far as the convention is concerned, subject to review and approval (for exports) of the U.S. Management Authority and Scientific Authority. The Service desires consistency between the convention and these rules, and favors a position which recognizes the greatly improved biological status of the alligator while retaining reasonable and necessary enforcement controls. Therefore, the rule would allow export consistent with the convention. Whether reimport of alligator hides or products could also be allowed, because of the lack of control over possible smuggled skins, is a question on which the Service desires recommendations from the public. The Service's present position is not to allow such reimport.

The above changes in the special rules pertaining to alligators would apply to the three parishes (Cameron, Calcasieu, Vermilion) where the alligator is classified as threatened (similarity of appearance), to the nine parishes proposed for reclassification to such status, and to any other American alligators which are so classified by the Service in the future. It should be recognized that by the express terms of this special rule, the "similarity of appearance" permits provided for in § 17.52 are not available for these alligators. They are only available for captive alligators.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Louisiana with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and

effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Final promulgation of the regulations on the American alligator in Louisiana will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from these proposals.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of these proposed rules are Mr. Coleman Sachs, Legal Specialist, Division of Law Enforcement, 202-343-9347, and Dr. C. Kenneth Dodd, Jr. Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. Amend § 17.11(i) by changing the status of the American alligator in Louisiana under "Reptiles" on the list of animals to read as follows:

§ 17.11 Endangered and threatened wildlife.

• • • • •

PROPOSED RULES

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Popula= tion	Known distri= bution	Portion endangered			
Reptile:							
Alligator, Am.....	<i>Alligator mississippiensis</i>	NA	U.S.A. (Southeast).	Wherever found in the wild, except in those areas where it is listed as Threatened as set forth below.	E	11	NA
Do .....	.....do.....	NA	.....do	In the wild in Florida and in certain areas in GA, LA (except in those 12 parishes described below), SC and TX, as set forth in Sec. 17.42 (a)(2)(iv).	T	20	17.42(a)
Do .....	.....do.....	NA	.....do	In the wild in Cameron, Calcasieu, Vermilion, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines parishes in LA.	T(S/A)	11	17.42(a)
Do .....	.....do.....	NA	Worldwide	In captivity wherever found.	T(S/A)	11	

(2) Also, part 17, subpart D, title 50 of the Code of Federal Regulations is proposed to be amended as set forth below.

§ 17.42 [Amended]

1. Paragraph (a)(1) of § 17.42 is revised to read as follows:

(a) * * *

(1) *Prohibitions.* Except as provided by permits issued under paragraph (a)(3) of this section, the following prohibitions apply to the American alligator.

* * *

2. Paragraph (a)(1)(i)(E) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(i) * * *

(E) Any person may take American alligators in Cameron, Vermilion, Calcasieu, Iberia, St. Mary, Terrebonne, St. Bernard, St. Tammany, Lafourche, St. Charles, Plaquemines, and Jefferson Parishes in accordance with the laws and regulations of the State of Louisiana provided the following requirements are met:

(1) The hides of such alligators are only sold or offered for sale to persons holding a valid Federal license to buy hides, issued under this subsection;

(2) The meat and other parts are sold only in the State of Louisiana, and only in accordance with the laws and regulations of that State.

* * *

3. Paragraph (a)(1)(i)(F) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(i) * * *

(F) When American alligators are taken by Service or State officials in accordance with paragraph (a)(1)(i)(D) of this section, the hides may be sold by their respective agencies to any person holding a valid Federal license to buy hides, issued under this subsection; provided the following requirements are met:

(1) The hides have been tagged by the State of origin with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(2) The tag number, length of belly skin, and date and place of the specimen's taking are recorded;

(3) A tag label is affixed to the outside of any package used to ship the hides, identifying its contents as alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee;

(4) The meat and other parts are only sold in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

* * *

4. Paragraph (a)(1)(iv) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course

of a commercial activity, any American alligator: *Provided*, That the hides of American alligators lawfully obtained from the State of Louisiana prior to December 28, 1973, may be sold or offered for sale in interstate (not foreign) commerce if the director of the State wildlife conservation agency certifies to the Director that all such hides were lawfully obtained and can be identified; and such hides are sold, offered for sale, delivered, carried, transported, or shipped only to a person holding a valid Federal license to buy hides, issued under this subsection.

* * *

5. Paragraph (a)(2)(i) of § 17.42 is revised to read as follows:

(a) * * *

(2) * * *

(i) "Buyer" shall mean a person engaged in the business of buying hides of American alligators for the purpose of resale. A buyer may also be a tanner or fabricator.

* * *

6. Paragraph (a)(2)(iv) is amended by adding the following words after the words "occurring in the wild in * * *":

(a) * * *

(2) * * *

(iv) * * * Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines * * *

7. Paragraph (a)(3)(i) of § 17.42 is revised to read as follows:

(a) * * *

(3) * * *

(i) Permits are available under § 17.32 (General permits—threatened wildlife) for all the prohibited activities referred to in paragraph (a)(1) of this section, except that import and export shall be allowed only as consistent with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (see 50 CFR, Part 23 for rules implementing this convention). All the terms and provisions of § 17.32 shall apply to all such permits issued under the authority of this paragraph and in addition, any permit which authorizes the sale, delivery, care, carriage, transportation, or shipment of American alligators will be subject to the special conditions set forth below in paragraph (a)(3)(iii) of this section.

8. Paragraph (a)(3)(iii)(A)(2) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *
(A) * * *

(2) The name and address of the applicant's business organization, the address of any other facilities from which it is operated, and the names and addresses of its principal officers.

9. Paragraph (a)(3)(iii)(A)(3) of § 17.42 is revoked.

10. Paragraph (a)(3)(iii)(A)(4) of § 17.42 is revoked.
(a) * * *
(3) * * *

(iii) * * *

(A) * * *

(3) and

(4) [Revoked]

11. Paragraph (a)(3)(iii)(B) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a permit for the requested activity should be issued.

12. Paragraph (a)(3)(iii)(C)(4) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *
(C) * * *

(4) A tanner must leave all tags on the hides, but must collect, record, and return to the issuer all shipping tags; in addition there must be applied in indelible ink to the underside of each hide a mark of the tanner's choosing that has been approved by the Service, placed at least every one-half inch throughout its surface area

13. Paragraph (a)(3)(iii)(C)(7) of § 17.42 is revoked.

14. Paragraph (a)(3)(iii)(C)(8) of § 17.42 is revoked.

(a) * * *
(3) * * *
(iii) * * *
(C) * * *

(7) and (8) [Revoked]

15. Paragraph (a)(3)(iii)(C)(6) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *
(C) * * *

(6) Every licensee must maintain complete and accurate records of all American alligator hides, including all State tags.

16. Paragraph (a)(4) of § 17.42 is revised to read as follows:

(a) * * *

(4) Products of American alligator which have been manufactured by licensed fabricators and marked in accordance with paragraph (a)(3)(iii)(C)(4) of this section may be transported, shipped delivered, carried, or received in interstate commerce in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

17. Paragraph (a)(5) of § 17.42 is revoked.

(a) * * *

(5) [Revoked]

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 21, 1978.

LYNN A GREENWALT.

Director, Fish and Wildlife Service.

[FR Doc. 78-27394 Filed 9-29-78; 8:45 am]